

## **§ 36.4336**

## **38 CFR Ch. I (7–1–10 Edition)**

### **§ 36.4336 [Reserved]**

### **§ 36.4337 Conformance of loan instruments.**

Regulations issued under 38 U.S.C. chapter 37 and in effect on the date of any loan which is submitted and accepted or approved for a guaranty or for insurance thereunder, shall govern the rights, duties, and liabilities of the parties to such loan and any provisions of the loan instruments inconsistent with such regulations are hereby amended and supplemented to conform thereto.

(Authority: 38 U.S.C. 3703(c)(1))

### **§ 36.4338 Supplementary administrative action.**

(a) Notwithstanding any requirement, condition, or limitation stated in or imposed by the regulations concerning the guaranty or insurance of loans to veterans, the Under Secretary for Benefits, or the Director, Loan Guaranty Service, within the limitations and conditions prescribed by the Secretary, is hereby authorized, if he or she finds the interests of the Government are not adversely affected, to relieve undue prejudice to a debtor, holder, or other person, which might otherwise result, provided no such action may be taken which would impair the vested rights of any person affected thereby. If such requirement, condition, or limitation is of an administrative or procedural (not substantive) nature, any employee designated in § 36.4845 is hereby authorized to grant similar relief if he or she finds the failure or error of the lender was due to misunderstanding or mistake and that the interests of the Government are not adversely affected. Provisions of the regulations considered to be of an administrative or procedural (nonsubstantive) nature are limited to the following:

(1) The requirement in § 36.4808(a) that a lender obtain in prior approval of the Secretary before closing a joint loan if the lender or class of lenders is eligible or has been approved by the Secretary to close loans on the automatic basis pursuant to 38 U.S.C. 3702(d);

(2) The requirements in § 36.4803(1) concerning the giving of notice in assumption cases under 38 U.S.C. 3714;

(3) The requirement in § 36.4824(d)(3) that no claim is payable unless it is submitted within 1 year after the liquidation sale;

(4) The requirement in § 36.4823(a) to submit notice of election to convey a property to VA within 15 days of the date of liquidation sale;

(5) The determination by the holder in § 36.4823(b) of the amount of indebtedness that must be waived in order to make a property eligible for conveyance;

(6) The determination in § 36.4814(f)(2) of the date beyond which no additional fees or charges will be allowed;

(7) The determination in § 36.4824(a)(3) of the interest payable on a claim under guaranty; and

(8) The reconsideration in § 36.4824(e) of the holder's electronic request for review of any denied items within the claim;

(b) Authority is hereby granted to the Loan Guaranty Officer to redelegate authority to make any determinations under this section.

(Authority: 38 U.S.C. 3714 and 3720)

### **§ 36.4339 Eligibility of loans; reasonable value requirements.**

(a) Evidence of guaranty or insurance shall be issued in respect to a loan for any of the purposes specified in 38 U.S.C. 3710(a) only if all of the following conditions are met:

(1) The proceeds of such loan have been used to pay for the property purchased, constructed, repaired, refinanced, altered, or improved.

(2) Except as to refinancing loans pursuant to 38 U.S.C. 3710(a)(8), (a)(9)(B)(i), (a)(11), or (b)(7) and energy efficient mortgages pursuant to 38 U.S.C. 3710(d), the loan (including any scheduled deferred interest added to principal) does not exceed the reasonable value of the property or projected reasonable value of a new home which is security for a graduated payment mortgage loan, as appropriate, as determined by the Secretary. For the purpose of determining the reasonable value of a graduated payment mortgage loan to purchase a new home, the reasonable value of the property as of